

REMARKS

Applicants have amended the claims to place them in better form for U.S. patent practice.

New Claims 14 and 15 are supported by, for example, original Claims 3 and 6, respectively.

Applicants have amended Claim 1 in order to emphasize that the presently claimed detector sensitive to radiation is placed at a distance allowing a continuous measurement of the radiation emitted by the engine. This means that the measurement is done directly “on” the engine, which may be in use, in a continuous manner. Independent Claim 8 was likewise amended. This means that the presently claimed method and device allow the measurement of an “instantaneous” consumption rate, instead of a mean measurement in the case of the cited documents by the examiner.

The amendments to Claims 1 and 8 are supported by the application as originally filed. For example, the Examples exemplify, in a non-limiting, merely illustrative manner, a measurement being done directly “on” an engine, in use, in a continuous manner.

No new matter is added.

Applicants note with appreciation the examiner’s indication of allowable subject matter. Referring to Section nos. 9 and 10 at page 10 of the Office Action, the examiner states that Claims 4-6 contain allowable subject matter.

I. RESPONSE TO CLAIM OBJECTIONS

Referring to Section Nos. 3 and 4 at pages 2 and 3 of the Office Action, the examiner has identified various informalities in the claims.

In response, Applicants have amended Claims 1-13 and added new Claims 14 and 15. The amendments are believed to address each of the claim objections presented at Section Nos. 3 and 4 on pages 2 and 3 of the Office Action.

Withdrawal of the claim objections is requested.

II. RESPONSE TO REJECTION UNDER 35 U.S.C. § 103

Referring to Section No. 5 at pages 3-7 of the Office Action, Claims 1-2 and 8-13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,471,696 ("Moore") in view of U.S. Patent No. 5,445,964 ("Lee").

Applicants respectfully traverse. The subject matter of the presently rejected claims is not disclosed or suggested by the combination of Moore in view of Lee.

Moore discloses a device measuring oil consumption based on a radioactivity measurement. Moore, however, does not disclose a continuous measure, and even less, a measure which can be continued while the engine is in use. As evidence of this deficiency in Moore, Applicants note the fact that Moore does not teach that:

the detector is placed in such a way that it can measure while the trap is in place and thus obtain the engine is in use; nor
the transmission of the data to a computer in order to convert it to the oil consumption.

In other words, the presently claimed subject matter allows to give the instantaneous oil consumption, even while the engine is in use.

As for Lee, it teaches a method for determining oil consumption in an internal combustion engine by laser spectroscopy of non-radioactive compounds. Thus, Lee concerns a

very different technique than the one disclosed in Moore. Moreover, Lee teaches away from a radioactivity measurement, because it teaches that “the use of radiometric methods are undesirable because of radioactive health and security considerations” (col. 1, lines 56 to 66). Accordingly, the prior art teaches away from the examiner’s proposed combination thereof.

Furthermore, Lee does not teach that the detector of radioactivity is placed close to the trap in order to measure the radioactivity “on-site” and while the engine is in use.

For all of the foregoing reasons, Applicants request reconsideration and withdrawal of the present §103 obviousness rejection.

III. RESPONSE TO REJECTIONS UNDER 35 U.S.C. § 103

Referring to Section Nos. 6-8 at pages 7-9 of the Office Action:

Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Moore in view of Lee, and further in view of Nature 210, 547-8 (1966);

Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Moore in view of Lee, and further in view of Hevesy and Levi (1936) (Wikipedia) and Michael D. Glascock’s paper; and

Claim 13 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Moore in view of Lee, and further in view of U.S. Patent No. 2,833,261 (“August”).

Applicants respectfully traverse. The subject matter of the presently rejected claims is not disclosed or suggested by the applied combinations of art.

Each of Claims 3, 7, and 13 is a dependent claim. For the reasons noted at Section II above, the combination of Moore in view of Lee does not disclose or suggest the subject matter

recited in independent Claims 1 and 8. None of the presently applied secondary references cures any of the presently identified deficiencies in Moore in view of Lee. Accordingly, Claims 3, 7, and 13 are patentable, at least by virtue of their dependence.

Withdrawal of the present §103 obviousness rejections is requested.

IV. CONCLUSION

Reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the examiner feels may be best resolved through a personal or telephone interview, the examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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